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FILED
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CLERK US DIST. COURT
SOUTHERN DISTRICT OF CALIFORNIA
DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

'08 MJ 2309

UNITED STATES OF AMERICA, Plaintiff, v. **Jose Rafael JIMENEZ** Defendant.	Magistrate ~~Case~~ No.________ COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1324(a)(2)(B)(iii) Bringing in Illegal Alien(s) Without Presentation

The undersigned complainant being duly sworn states:

On or about **July 28, 2008**, within the Southern District of California, defendant **Jose Rafael JIMENEZ,** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Jose Carlos GUTIERREZ-Roman,** had not received prior official authorization to come to, enter and reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

SIGNATURE OF COMPLAINANT
Alfredo Loperena, Enforcement Officer
U.S. Customs and Border Protection

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESCENCE, THIS 29th DAY OF **JULY, 2008.**

UNITED STATES MAGISTRATE JUDGE

7/29/08
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PROBABLE CAUSE STATEMENT

The complainant states that **Jose Carlos GUTIERREZ-Roman** is a citizen of a country other than the United States; that said alien has admitted he is deportable; that his testimony is material; that it is impracticable to secure his attendance at trial by subpoena; and that he is a material witness in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144.

On July 28, 2008, at approximately 9:40 AM, **Jose Rafael JIMENEZ (Defendant)** made application for admission into the United States at the Otay Mesa Port of Entry as the driver and sole visible occupant of a 1992 white Chevrolet Suburban. A United States Customs and Border Protection (CBP) Officer conducting pre-primary inspections approached the vehicle driven by Defendant and initiated an inspection. Defendant presented a valid California birth certificate bearing his name, and a valid California Identification Card bearing his name and photograph as his entry documents. Defendant was interviewed and stated to the CBP Officer he was going to Otay Mesa to get auto parts. Defendant stated he was only bringing tools from Mexico. The CBP Officer conducted a cursory inspection of the vehicle and noticed what appeared to be a non-factory compartment located underneath the vehicle. Defendant and the vehicle were subsequently escorted to secondary for a more thorough inspection.

In secondary, Defendant made an unsolicited and voluntarily statement to the CBP Officer that he only one person concealed inside the vehicle. A CBP Canine Enforcement Officer conducted an inspection of the vehicle and received a positive alert to the vehicle. CBP Officers removed a hydraulic jack, some tools and equipment, the rear seats of the vehicle and floor covering to reveal an access panel to the non-factory compartment located underneath the vehicle. One male human being was discovered concealed inside the non-factory compartment and was extricated from the vehicle. The concealed individual was determined to be a citizen of Mexico without entitlements to enter the United States. The individual was retained as a Material Witness and is now identified as **Jose Carlos GUTIERREZ-Roman (Material Witness).**

During a video recorded proceeding, Defendant was advised of his Miranda Rights, acknowledged his rights and elected to answer questions without the benefit of counsel. Defendant admitted he was a hired driver, but was not sure if it he was smuggling people or drugs into the United States. Defendant stated if successful in smuggling, the people he made arrangements with would pay him a $1,500.00 United States Dollars (USD).

During a separate video recorded proceeding, Material Witness declared he is a citizen of Mexico without legal rights or documents to enter the United States. Material Witness stated he was going to pay $3,000.00 USD to be smuggled into the United States. Material Witness stated he was going to San Diego, California to reside with relatives and seek employment.